



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANIEL KLEEBERG, et al.,

Plaintiffs,

16-CV-9517 (LAK) (KHP)

-against-

ORDER

LESTER EBER, et al.,

Defendants.

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KATHARINE H. PARKER, United States Magistrate Judge:

On February 21, 2018, the parties executed a Consent Scheduling Order providing that no additional parties may be joined after February 28, 2018 and that no amendments to the pleadings may be made after March 31, 2018. (Dkt. No. 80.) Because Plaintiffs now seek to amend their Second Amended Complaint after the expiration of these deadlines (Dkt. No. 164), they must demonstrate that “good cause” exists to allow their proposed amendments and the joinder of additional nominal parties. Fed. R. Civ. P. 16(b); *see also Kassner v. 2nd Ave. Delicatessen Inc.*, 496 F.3d 229, 243 (2d Cir. 2007). In the Second Circuit, the measure for whether a party has demonstrated “good cause” to amend a complaint after the expiration of the deadline established in a scheduling order is their diligence in seeking amendment. *E.g., Kassner*, 496 F.3d at 243.

Plaintiffs are directed to file a supplemental brief by no later than **April 12, 2019**, explaining how their proposed amendments meet the “good cause” standard of Rule 16(b) and, in particular, when Plaintiffs became aware of the new claims and underlying facts asserted in their proposed Third Amended Complaint. The Court does not require additional briefing on

any alleged events or transactions post-dating the Second Amended Complaint because such claims will be considered under Federal Rule 15(d), which governs supplemental pleadings. *See, e.g., Quaratino v. Tiffany & Co.*, 71 F.3d 58, 66 (2d Cir. 1995). Defendants may file a reply brief by no later than **April 26, 2019**. The briefs should be no more than ten pages long and should be double spaced.

SO ORDERED.

DATED: New York, New York
March 28, 2019



KATHARINE H. PARKER
United States Magistrate Judge